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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,842	11/29/2001	Kosta L. Pelonis	305-01	6401

7590

03/06/2003

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EXAMINER

JEFFERY, JOHN A

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,842

Applicant(s)

PELONIS, KOSTA L.

Examiner

John A. Jeffery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Statutory Text Omitted

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 103

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolley (US2075323) in view of De'Longhi (US4870253). Woolley (US2075323) discloses a covered, sealed radiator heater comprising a plurality of tubular radiator units and fans 18 positioned above the radiator units for directing air onto the radiator units' upper portions enhancing thermal convection. See Fig. 1 and P. 1, col. 2, lines 27-42. The claims differ from the previously cited prior art in calling for the heater to be portable. However, portable radiators are well known in the art as shown by De'Longhi (US4870253) noting col. 1, lines 5-10 where an electrically-heated mobile radiator with diathermal fluid is disclosed so that the heater can be transported to different rooms. In view of De'Longhi (US4870253), it would have been obvious to one of ordinary skill in the art to provide a mobile radiator in lieu of the fixed radiator of Woolley (US2075323) so that the heater can be transported to different rooms thereby heating only desired rooms. The claims differ from the previously cited prior art in calling for an electric heating element within the sealed radiator. Providing an electric heating element within a sealed radiator is conventional and well known in the art as evidenced by De'Longhi

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(US4870253) noting electric heater 4 within the sealed radiator in Fig. 1 so that the diathermal fluid is heated within the radiator as compared to heated at a remote location. By providing an *in situ* electric heater, the radiator fluid can be heated, yet still be portable to transport to other rooms. In view of De'Longhi (US4870253), it would have been obvious to one of ordinary skill in the art to provide an electric heater in lieu of a centralized, remote heat source of Woolley (US2075323) so that the fluid is heated within the radiator thus enabling portability to transport the radiator to other rooms. The claims differ from the previously cited prior art in calling for a centrifugal fan. However, centrifugal fans in portable radiators is conventional and well known in the art as evidenced by De'Longhi (US4870253) noting col. 4, line 22. In view of De'Longhi (US4870253), it would have been obvious to one of ordinary skill in the art to provide a centrifugal fan in the previously described apparatus so that a blower was used that requires relatively small space yet has a high airflow rate thus facilitating portability. The claims also differ from the previously cited prior art in calling for the electric motor driving the fan at low rpm. However, as is well known in the art, the speed of the fan in heat radiators is directly proportional to the convective heating effect. That is, driving a fan at higher speed will result in a greater convective heating effect as compared to lower speeds. For example, Woolley (US2075323) on Page 2, lines 19-28 discloses driving a fan in conjunction with a radiator for heating a room at reduced speed (note "half or other partial speed in lines 26-27) depending on the desired temperature setting. In view of Woolley (US2075323), it would have been obvious to one of ordinary skill in the art to provide a reduced fan speed setting in the previously described apparatus so

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that a reduced convective heating effect was achieved thereby avoiding overheating of the space to be heated. Regarding claims 5 and 6, no criticality is seen in the specific motor rpm values. Furthermore, it is well settled that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233,235 (CCPA 1955). Moreover, courts have held that even if "applicant's modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art, unless the claimed ranges 'produce a new and unexpected result from which is different in kind and not merely in degree from the results of the prior art.'" *In re Huang*, 100 F.3d 135, 139 (Fed. Cir. 1996); 40 U.S.P.Q. 2d 1685 (*citations omitted*). Here, one of ordinary skill in the art would know that reducing the motor speed would correspondingly reduce the airflow rate of the fan (see e.g., P. 2, col. 2, lines 19-29 of Woolley) and the specific rpm values claimed are within the scope of routine experimentation by one of ordinary skill in the art.

Response to Arguments

Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

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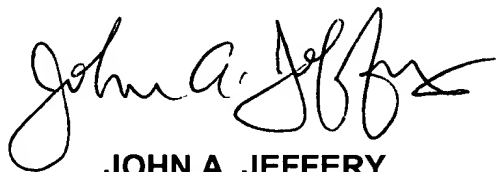
Conclusion

Any inquiry concerning this or earlier communications from the examiner should be directed to John A. Jeffery at telephone number (703) 306-4601 or fax (703) 305-3463. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM EST. The examiner can also be reached on alternate Fridays.

The fax phone numbers for the organization where this application or proceeding is assigned are:

Before Final	(703) 872-9302
After Final	(703) 872-9303
Customer Service	(703) 872-9301

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0861.



**JOHN A. JEFFERY
PRIMARY EXAMINER**

3/4/03